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HEARING DATE & TIME:
DECEMBER 7, 2022 AT 9:00 AM

Anne Penachio, Esq.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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:
In re: CHAPTER 13
:
HARRY PEREZ, SR., Case No.: 22-10999-cgm
:
Debtor. :
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**THE DEBTOR'S OPPOSITION TO THE MOTION OF SELECT PORTFOLIO
SERVICING, INC. AS SERVICING AGENT FOR DEUTSCHE BANK NATIONAL
TRUST COMPANY, AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE WAMU
MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-AR4 FOR RELIEF
FROM STAY WITH RESPECT TO THE HOME AT 2451 WEBB AVENUE, APT. 9C,
BRONX NY 10468 A/K/A 6 FORDHAM HILL OVAL, APT. 9C, BRONX, NY 10468**

**TO: THE HONORABLE CECILIA G. MORRIS
UNITED STATES BANKRUPTCY JUDGE**

HARRY PEREZ, SR., by and through his counsel, Penachio Malara LLP, submits
this opposition to the motion of **SELECT PORTFOLIO SERVICING, INC. AS SERVICING
AGENT FOR DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE, ON
BEHALF OF THE HOLDERS OF THE WAMU MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2006-AR4 ("SPS")** to vacate the stay with respect to the rental
property at 2451 Webb Avenue, Apt. 9C, Bronx, NY 10468 a/k/a 6 Fordham Hill Oval, Apt. 9C,
Bronx, NY 10468 (the "Rental Home") and respectfully sets forth as follows:

1. On or about July 21, 2022, the Debtor filed a voluntary petition for

relief under Chapter 13 of Title 11 of the United States Code, as amended (the “Bankruptcy Code”) with the Clerk of this Court. The case was referred to the Bankruptcy Judge herein.

2. The Debtor’s financial reverses was precipitated primarily by business setbacks associated with the economy.

3. In addition to his residence and another cooperative apartment, the Debtor owns the Rental Home. The Debtor recently obtained an appraisal on the Home dated November 8, 2022 valuing it at \$270,000.00. See Exhibit A.

4. SPS holds or services the mortgage on the Home. According to SPS, the principal balance was approximately \$82,390.46 as per its Proof of Claim numbered 5 filed on September 27, 2022. At the time, SPS alleged that \$11,065.38 in arrears was due. In its motion, SPS alleges that \$83,105.97 is due.

5. The Debtor is obligated to make monthly payments in the amount of approximately \$549.20. According to PHH the Debtor failed to make 3 payments for August through October 2022. SPS alleges that the Debtor is behind post-petition by at least \$1,647.60.

6. The Debtor maintains that he has not been current with payments.

7. The Debtor wishes to sell the Home as there is equity in it. The Debtor is willing to make the requisite payments pending the sale.

THE MOTION SHOULD BE DENIED

8. In support of its motion, SPS alleges that there is "cause" to vacate the stay under 11 U.S.C. § 362(d)(1) due to the Debtor's alleges failure to make payments.

9. The Debtor wishes to sell the Rental Home and use the proceeds as additional funding for the Plan. The undersigned has spoken with counsel for SPS in an effort to enter into a conditional order. To date, the Debtor is waiting for a conditional order to be circulated. As of

today, Ehret Van Horn of Gross Polowy, LLC indicated that he would be sending a condition order for review.

10. Based upon the foregoing, the motion should be denied or conditionally granted.

WHEREFORE, the Debtor respectfully requests that SPS's motion be denied or granted conditionally subject to the Debtor entering into a conditional order.

Dated: White Plains, New York
November 30, 2022

PENACHIO MALARA, LLP

By: /s/ Anne Penachio
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